



**State of New Hampshire  
DEPARTMENT OF ENVIRONMENTAL SERVICES**

6 Hazen Drive, P.O. Box 95, Concord, NH 03302-0095  
(603) 271-2900 FAX (603) 271-2456



Robert Barr  
55 Park Street  
Northfield, NH 03276

**ADMINISTRATIVE ORDER  
No. WMD 03-06**

January 31, 2003

**A. INTRODUCTION**

This Administrative Order is issued by the Department of Environmental Services, Waste Management Division to Robert Barr pursuant to RSA 149-M:15, I. This Administrative Order is effective upon issuance.

**B. PARTIES**

1. The Department of Environmental Services, Waste Management Division ("DES"), is a duly constituted administrative agency of the State of New Hampshire, having its principal office at 6 Hazen Drive, Concord, NH 03301.
2. Robert Barr is an individual having a mailing address of 55 Park Street, Northfield, NH 03276.

**C. STATEMENTS OF FACTS AND LAW**

1. Pursuant to RSA 149-M, DES regulates the management and disposal of solid waste. Pursuant to RSA 149-M:7, the Commissioner of DES has adopted Env-Wm 100 – 300, 2100 *et seq.* ("Solid Waste Rules") to implement this program.
2. Robert Barr is the record owner of land at 55 Park Street, Northfield, NH, more particularly described in a deed recorded in the Merrimack County Registry of Deeds at Book 2223, Page 1073, and identified on Northfield Tax Map U7, as Lot 6 (the "Site").
3. On May 20, 2002, DES personnel received a complaint alleging improper management of solid waste at the Site.
4. On September 5, 2001, DES issued Letter of Deficiency No. WMD 01-024 to Robert Barr for violations of RSA 149-M and the Solid Waste Rules.
5. On June 4, 2002, DES personnel conducted an inspection of the Site. The purpose of the inspection was to determine compliance relative to RSA 149-M and the Solid Waste Rules.
6. RSA 149-M:4, XXII defines "solid waste" as "any matter consisting of putrescible material, refuse, residue from an air pollution control facility, and other discarded or abandoned material."
7. RSA 149-M:4, XXI defines "refuse", in part, as "any waste product ... which is composed wholly or partly of such materials as ... brick, plaster or other waste resulting from the

demolition, alteration, or construction of buildings or structures; or accumulated waste material, cans, containers, tires, junk, or other such substances which may become a nuisance.”

8. During the June 4, 2002 inspection, DES personnel observed waste consisting of, but not limited to, scrap metal, typewriters, metal duct work, metal stove pipe, cardboard, broken glass, double oven stove, metal office cabinets, damaged Christmas decorations, a sink, computer monitors, file cabinets, car parts, and PVC piping.

9. The scrap metal, typewriters, metal duct work, metal stove pipe, cardboard, broken glass, double oven stove, metal office cabinets, damaged Christmas decorations, a sink, computer monitors, file cabinets, car parts, and PVC piping observed by DES personnel at the Site are solid wastes as defined by RSA 149-M:4, XXII.

10. RSA 149-M:4, IX defines a “[solid waste] facility” as “a location, system, or physical structure for the collection, separation, storage, transfer, processing, treatment or disposal of solid waste.”

1 The Site constitutes a “solid waste facility” as defined by RSA 149-M:4, IX.

12. Env-Wm 102.116 defines “owner” as “a person who owns a facility or part of a [solid waste] facility.”

13. Robert Barr is the owner of a solid waste facility.

14. RSA 149-M:9, I states that “No person shall construct, operate or initiate closure of a public or private facility without first obtaining a permit from [DES].”

15. A review of DES files shows that Robert Barr has not applied for nor does he hold a permit to operate a solid waste facility at any New Hampshire location.

16. On June 27, 2002, DES personnel conducted a follow-up inspection of the Site. DES personnel observed an empty dumpster at the Site. The Site remained unchanged since the June 4, 2002 inspection.

17. On July 17, 2002, DES personnel conducted a second follow-up inspection of the Site. DES personnel observed a dumpster approximately half full with carpeting, cardboard, plastic, metals, and other solid wastes. At that time, it appeared that approximately 30-40% of the solid wastes from the Site had been removed from the Site and placed into the dumpster.

18. On July 30, 2002, DES personnel conducted a third follow-up inspection of the Site. DES personnel observed that the dumpster had been removed from the Site. DES personnel observed no other changes to the Site since the July 17, 2002 inspection.

19. By letter dated August 5, 2002, to Mr. Barr, DES personnel requested that Mr. Barr remove all solid wastes at the Site by September 15, 2002, and to submit copies of the disposal receipts to DES.

20. On September 3, 2002, DES personnel conducted a fourth follow-up inspection of the Site. DES personnel observed no change at the Site since the July 30, 2002 inspection.
21. On September 6, 2002, Mr. Barr contacted DES relative to the solid waste at the Site. Mr. Barr informed DES personnel that he had disposed of 8,700 pounds of solid waste from the Site. Mr. Barr stated that he would have all solid waste at the Site cleaned up by the first snowfall.
22. On September 19, 2002, DES personnel conducted another follow-up inspection of the Site. DES personnel observed that the solid waste observed during the September 3, 2002 inspection had not been removed.
23. On October 24, 2002, DES personnel conducted another follow-up inspection of the Site. DES personnel observed that the solid waste observed during the September 19, 2002 inspection had not been removed.
24. On November 13, 2002, DES personnel conducted another follow-up inspection of the Site. DES personnel observed that the solid waste observed during the October 24, 2002 inspection had not been removed.
25. On December 27, 2002, DES personnel conducted another follow-up inspection of the Site. DES personnel observed that the solid waste observed during the November 13, 2002 inspection had not been removed except that the wastes were now snow covered.

#### **D. DETERMINATION OF VIOLATIONS**

1. Robert Barr has violated RSA 149-M:9, I by operating an unpermitted solid waste facility.

#### **E. ORDER**

Based on the above findings, DES hereby orders Robert Barr as follows:

1. **Immediately** cease operating an unpermitted solid waste facility.
2. **By April 15, 2003**, remove all solid waste at the Site to a permitted solid waste facility.
3. **Within 14 days of the proper disposal of the solid waste and no later than April 29, 2003**, forward copies of disposal receipts to DES.
4. Send correspondence, data, reports, and other submissions made in connection with this Administrative Order, **other than appeals**, to DES as follows:

Cheryl McGary, Waste Management Specialist  
Department of Environmental Services  
6 Hazen Drive  
Concord, NH 03301  
Fax: (603) 271-2456  
e-mail: [cmcgary@des.state.nh.us](mailto:cmcgary@des.state.nh.us)

#### F. APPEAL

Any person aggrieved by this Order may appeal the Order to the Waste Management Council by filing an appeal that meets the requirements specified in Env-WMC 200 within 30 days of the date of this Order. Copies of the rule are available from the DES Public Information Center at (603) 271-2975 or at <http://www.des.state.nh.us/desadmin.htm>. Appealing the Order does not automatically relieve you of the obligation to comply with the Order.

#### G. OTHER PROVISIONS

Please note that RSA 149-M provides for administrative fines, civil penalties, and criminal penalties for the violations noted in this Order, as well as for failing to comply with the Order itself. Robert Barr remains obligated to comply with all applicable requirements, in particular RSA 149-M and the Solid Waste Rules. DES will continue to monitor your compliance with applicable requirements and will take appropriate action if additional violations are discovered.

This Order is being recorded in the Merrimack County Registry of Deeds so as to run with the land.

**COPY**

Philip J. O'Brien, Ph.D., P.G., Director  
Waste Management Division

**COPY**

Robert Monaco, Acting Commissioner  
Department of Environmental Services

Certified Mail/RRR: 7000 1670 0000 0584 3830

DB/FILE

Gretchen Rule, DES Legal Unit

Philip J. O'Brien, Ph.D., P.G., Director, WMD

Public Information Coordinator, DES

Jennifer Patterson, Sr. Assistant Attorney General

Town Clerk, Northfield, NH